

§ 1580.302

7 CFR Ch. XV (1–1–11 Edition)

the average effective posted county level price for the commodity in the 3 marketing years preceding that date. If USDA prices are not available, prices from verifiable sources, including universities, cooperatives, or local markets, may be used.

(4) If a petition is certified with respect to a commodity not produced by the producer every year, the producer may establish the average price received by the producer for the commodity in the 3 marketing years preceding the year in which the petition is filed by using annual price data for the 3 most recent marketing years in which the producer produced the commodity.

(5) The producer must certify that the producer has not received cash benefits under the Trade Adjustment Assistance for Workers or Trade Adjustment Assistance for Firms programs; or TAA for Farmers benefits based on the production of an agricultural commodity covered by another TAA for Farmers petition.

(d) The producer must certify that:

(1) For petitions certified for 2008 crops, their compliance with person determinations set forth in part 1400 of this title, subpart B and average adjusted gross income limitation requirements set forth in subpart G, effective July 18, 1996.

(2) For petitions certified for 2009 and subsequent crops, their average gross nonfarm income and average adjusted gross farm income meet requirements set forth in part 1400 of this title, subpart F, and payment limitation requirements set forth in part 1400 of this title, subparts A and B, effective December 29, 2008; and,

(e) The total amount of payments made to a producer for which the application was approved may not exceed the limitations on payments applicable to:

(1) For petitions certified for 2008 crops, counter-cyclical payments, set forth in part 1400 of this title, subpart A, effective July 18, 1996.

(2) For petitions certified for 2009 and subsequent crops, the counter-cyclical payments, including the Average Crop Revenue Election (ACRE) set forth in part 1400 of this title, subparts A and B, effective December 29, 2008; and

(f) If requested by FSA, a producer must provide documentation regarding average adjusted gross income and payment limitations.

§ 1580.302 Technical assistance and services.

(a) *Initial Technical Assistance:* A producer covered by a certification who has been determined by FSA to meet the requirements of § 1580.301 of this part, is eligible to receive Initial Technical Assistance through NIFA to be completed within 180 days of petition certification. Such assistance shall include information regarding:

(1) Improving the yield and marketing of that agricultural commodity, and

(2) The feasibility and desirability, of substituting one or more agricultural commodities for that agricultural commodity.

(b) *Intensive Technical Assistance:* Upon completion of Initial Technical Assistance, a producer is eligible to participate in Intensive Technical Assistance. Intensive Technical Assistance shall consist of:

(1) A series of courses to further assist the producer in improving the competitiveness of producing the agricultural commodity certified under § 1580.203 of this part, or another agricultural commodity, and

(2) Assistance in developing an initial business plan based on the courses completed under paragraph (a) of this section.

(c) *During Intensive Technical Assistance:* NIFA shall deliver and the producer shall be required to attend a series of Intensive Technical Assistance workshops relevant to the circumstances of the producer.

(d) *Initial Business Plan:* Upon completion of the Initial and Intensive Technical Assistance, the producer shall be required to develop an Initial Business Plan recommended by NIFA and approved by the Administrator (FAS) before receiving an adjustment assistance payment. The Initial Business Plan will:

(1) Reflect the skills gained by the producer through the courses described in paragraph (c) of this section; and

(2) Demonstrate how the producer will apply those skills to the circumstances of the producer.

(e) Upon approval of the Initial Business Plan, the producer will receive an amount not to exceed \$4,000 to implement the Initial Business Plan or develop a Long-Term Business Adjustment Plan.

(f) A producer who completes the Intensive Technical Assistance and whose Initial Business Plan has been approved shall be eligible, in addition to the amount under paragraph (e) of this section, for assistance in developing a Long-Term Business Adjustment Plan.

(g) *Long-Term Business Adjustment Plan:* The Long-Term Business Adjustment Plan shall:

(1) Include steps reasonably calculated to materially contribute to the economic adjustment of the producer to changing market conditions;

(2) Take into consideration the interests of the workers employed by the producer; and

(3) Demonstrate that the producer will have sufficient resources to implement the business plan.

(h) Upon recommendation by NIFA and approval of the producer's Long-Term Business Adjustment Plan by the Administrator (FAS), the producer shall be entitled to receive an amount not to exceed \$8,000 to implement their Long-Term Business Adjustment Plan.

(i) The Initial Business Plan and Long-Term Business Adjustment Plan must be completed and approved within 36 months after a petition is certified.

(j) A producer shall not receive a combined total of more than \$12,000 for the Initial Business Plan and the Long-Term Business Adjustment Plan in the 36-month period following petition certification.

(k) The Administrator (FAS) may authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses incurred by a producer in connection with the initial technical assistance, if such initial technical assistance is provided at facilities that are not within normal commuting distance of the regular place of residence of the producer. NIFA and FSA will work with the pro-

ducer and the Administrator (FAS) to facilitate application for and proper payment of reasonable allowable supplemental expenses. The Administrator (FAS) will not authorize payments to a producer:

(1) For subsistence expenses that exceed the lesser of:

(i) The actual per diem expenses for subsistence incurred by a producer; or

(ii) The prevailing per diem allowance rate authorized under Federal travel regulations; or

(2) For travel expenses that exceed the prevailing mileage rate authorized under the Federal travel regulations.

§ 1580.303 Adjustment assistance payments.

(a) If the Administrator (FAS) determines that insufficient appropriated fiscal year funds are available to provide maximum cash benefits to all eligible applicants, after having deducted estimated transportation and subsistence payments and administrative and technical assistance costs, the Administrator (FAS) shall prorate cash payments to producers for the approved initial and long-term business plans.

(b) Any producer who may be entitled to a payment may assign their rights to such payment in accordance with 7 CFR part 1404 or successor regulations as designated by the Department.

(c) In the case of death, incompetency, disappearance, or dissolution of a producer that is eligible to receive benefits in accordance with this part, such producer or producers specified in 7 CFR part 707 may receive such benefits.

§ 1580.401 Subsequent year petition re-certification.

(a) Prior to the anniversary of the petition certification date:

(1) Groups or authorized representatives that provided the data to justify their initial petition shall provide the Administrator (FAS) data for the most recent marketing year, and

(2) The Administrator (FAS) shall make a determination with respect to the re-certification of petitions for the subsequent year by applying criteria as set forth in § 1580.203 of this part for the most recent marketing year.